

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

REYNA DEMPSEY, individually, on behalf  
of others similarly situated, and on behalf of  
the general public,

Plaintiff,

v.

GOVERNMENT EMPLOYEES  
INSURANCE COMPANY, et al.,

Defendants.

Case No. 24-cv-00425-EJD

**ORDER REGARDING FIRST  
AMENDED COMPLAINT;  
TERMINATING AS MOOT MOTIONS  
TO DISMISS COMPLAINT**

Re: ECF Nos. 26, 30, 42

Plaintiff initiated this civil rights class action on January 24, 2024. On April 25, 2024, following multiple stipulations extending their deadline to respond to the complaint, Defendants filed motions to dismiss the complaint on grounds including failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *See* ECF Nos. 26, 30. The Court subsequently granted the parties' stipulation to extend the related opposition and reply deadlines, and Plaintiff's opposition became due on June 6, 2024. *See* ECF No. 38.

On June 6, 2024, Plaintiff filed a First Amended Class Action Complaint ("FAC"). *See* ECF No. 42. In general, a party "may amend a pleading . . . to which a responsive pleading is required" "once as a matter of course no later than[] . . . 21 days after service of a motion under Rule 12(b)." Fed. R. Civ. P. 15(a)(1)(B). Although Plaintiff did not seek leave to file the FAC<sup>1</sup>

<sup>1</sup> The parties' May 3, 2024 Joint Case Management Statement discussed potential amendments, but the statement was filed within the 21-day window and the subsequent stipulation to extend Plaintiff's deadline to file her oppositions did not mention amendment. *See* ECF Nos. 35, 36. Case No.: 24-cv-00425-EJD  
ORDER RE FAC; TERMINATING AS MOOT DEFTS.' MOTS. TO DISMISS

1 and filed it more than 21 days after Defendants served their motions to dismiss, the Court finds  
2 that striking the FAC and requiring that Plaintiff request leave to file it—which the Court would  
3 grant—would be inefficient.

4 The Court therefore accepts the FAC as filed, and accordingly terminates as moot  
5 Defendants’ pending motions to dismiss and the related briefing deadlines and hearing date.  
6 Defendants’ 21-day deadline to respond to the FAC falls on June 27, 2024. *See* Fed. R. Civ. P. 12.

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8 **IT IS SO ORDERED.**

9 Dated: June 6, 2024

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12 EDWARD J. DAVILA  
13 United States District Judge  
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